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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In Re

MICHAEL J. WILSON
HEATHER A. WILSON

Debtors

Case No. BK-09-10652-BAM
Chapter 13

TRUSTEE: Rick A. Yarnall

Hearing Date: November 10, 2009
Hearing Time: 1:30 p.m.

QUALIFIED OPPOSITION TO MOTION FOR RELIEF FROM STAY

Come Now Debtor, Michael J. Wilson and Heather A. Wilson (hereinafter "Debtors"), by and through their legal counsel, David M. Crosby, of the law firm Crosby & Associates who respectfully oppose the **U.S. bank National Association as Successor Trustee to Bank of America, National Association as Trustee, for Ownit Mortgage Loan Trust, Ownit Mortgage Loan Asset-backed Certificates, Series 2006-6 Motion for Relief From Automatic Stay** filed with this Court on October 14, 2009 by U.S. bank National Association as Successor Trustee to Bank of America, National Association as Trustee, for Ownit Mortgage Loan Trust, Ownit Mortgage Loan Asset-backed Certificates, Series 2006-6, (hereinafter "Movant"), alleged secured creditor, for the purpose of requesting this Court to condition any such relief from stay upon the requirement that Movant reinitiate subject foreclosure by recording a Notice of Default pursuant to NRS 107.080 for the following reasons:

1. Movant has failed to provide a properly certified copy of the Note or

1 promise of payment, and therefore has not proved that it holds the Note. The movant
2 has attached only a copy of a note which it claims is a true and correct copy, although
3 no proof of current holder of physical note. The issues is whether the Movant is the
4 physical holder of the note, which is a negotiable instrument. Movant has failed to
5 prove they actually hold the Note in question. Accordingly, even if Movant had an
6 interest in the deed of trust, it would have no right to foreclose on the Subject Property
7 because there is no evidence that it is entitled to payment on the Note.

8 2. Debtors desires to participate in the Nevada AB-149 Foreclosure
9 Mediation Program pursuant to NRS Chapter 107, in order to avoid foreclosure
10 consistent with the purpose and intent of the Foreclosure Mediation Program which
11 participation must be initiated by the filing of the Notice of Default subsequent to July 1,
12 2009.

13 3. Debtors are hard-working, honest person who has recently experienced
14 reduced income due to the present economic crisis and desire to avoid foreclosure, pay
15 a fair fee based on the value of their home and to avoid foreclosure and subsequent
16 displacement which will negatively effect their Chapter 13 bankruptcy case.

17 I.

18 **STATEMENT OF FACT**

19 1. Debtors filed a Chapter 13 case on January 19, 2009, to restructure
20 personal debt including arrearage on their home. A Notice of Default had been filed on
21 October 7, 2008.

22 2. Debtors made substantial monthly payments for payment of the loan(s)
23 encumbering their home from the time of purchase until the time that their income
24 became reduced.

25 3. The property subject to this action is located at 3321 Perching Bird Lane,
26 North Las Vegas, Nevada 89084 (hereinafter "Real Property") and is presently
27 appraised at \$238,327.00. The alleged loan indebtedness is in excess of \$386,050.00
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1 II.

2 POINTS AND AUTHORITIES

3 N.R.S. Chapter 107 together with Foreclosure Mediation Rules adopted by the
4 Nevada Supreme Court provide that no mediation may be initiated until and unless a
5 Notice of Default is filed subsequent to July 1, 2009.

6 III.

7 CONCLUSION

8 THEREFORE, based upon the facts and the points and authorities set forth
9 herein, and any arguments heard at the hearing on this matter, Debtor respectfully
10 request that this Court condition any order granting motion for relief from the automatic
11 stay upon requirement that the continued foreclosure be reinitiated with the recording of
12 a new Notice of Default.

13 DATED this 27th day of October, 2009.

14 CROSBY & ASSOCIATES

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17 By: /s/ David M. Crosby
18 DAVID M. CROSBY, ESQ.
19 Nevada Bar No. 003499
20 711 S. 8th St.
21 Las Vegas, Nevada 89101
22 Attorneys for Debtors
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CERTIFICATE OF MAILING

I, the undersigned, an employee of the Crosby & Associates, hereby certify that on the 27th day of October, 2009, I deposited in the United States Mail, first class mail, postage pre-paid, a true and correct copy of the **Qualified Opposition to Motion for Relief from Stay** to all parties listed below:

Trustee
Rick A. Yarnall
701 S. Bridger, #820
Las Vegas, NV 89101

Michael J. Wilson
Heather A. Wilson
3321 Perching Bird Lane
North Las Vegas, NV 89084

Gregory L. Wilde, Esq
WILDE & ASSOCIATES
208 South Jones Blvd.
Las Vegas, NV 89107

/s/ Amelina Delgado
An employee of
CROSBY & ASSOCIATES